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November 15, 1935

Honorable H. K. Mangum,
County Attorney,
Flagstaff, Arizona.

Dear Sir:

Pursuant to the request contained in your letter of October 29, 1935, the following is the opinion of this office with respect to the matter about which you inquired.

Section 1839 of the Revised Code of 1928 reads as follows:

"MANNER OF PAYING LOSSES; ASSESSMENTS; NOTICE. When the loss as ascertained under the previous section exceeds in amount the cash funds of the company, the president, to pay such loss, may borrow money not to exceed one-half of one per cent of the value of all the property insured, and when the loss exceeds one-half of one per cent of the value of all property insured, the president shall call a meeting of the directors of the company, who shall make an assessment upon all property insured in proportion to the amount for which the several pieces of property are insured, at the rate of premium under which it may be classified. Such assessments shall be made for an amount sufficient to pay all indebtedness of the company up to the time said assessment is made, including the loss which occasioned such assessment. The secretary, whenever an assessment is made, shall notify each member of such company, by letter sent to his usual postoffice address, of the amount of such loss and indebtedness, and the sum due from him as his share thereof, and of the time when and to whom such payment is to be made; but such time shall not be less than thirty nor more than ninety days from the date of such notice."

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So far as we are advised this section has not been construed by an appellate court, nor does it appear to need construction or interpretation. It purports to make and, in our opinion, does make a holder of each such policy liable to the extent of the value of his property insured in such company for any loss sustained by the company.

Should you desire further information in connection with the subject please do not hesitate to command me.

Respectfully,

John L. Sullivan,
Attorney General,

Allen K. Perry,
Assistant Attorney General.

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